

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2 IN AND FOR THE COUNTY OF PIMA

3

4 STATE OF ARIZONA,)

5 Plaintiff)

6)

7 V.)

8 JEFFREY ALLEN WOOD,)

9 Defendant.)

2 CA-CR 2011-0193

DEPARTMENT B

CR-2009 3952

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BEFORE : HONORABLE JOHN LEONARDO

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APPEARANCES : MARK DIEBOLT
 For the State

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DON KLEIN
For the Defendant

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JUNE 15, 2011
JUDGEMENT AND SENTENCE

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Mary E. Bernal, RPR
Official Court Reporter
Certification #50414
Pima County, Arizona

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PROCEEDINGS

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6-15-2011

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THE COURT: State of Arizona versus Jeffrey

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Wood, 2009 3952.

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Announce your presence, please.

6

MR. DIEBOLT: Mark Diebolt for the State.

7

MR. KLEIN: Don Klein for Mr. Wood, present in
8 custody.

9

Would you like us to approach the podium?

10

THE COURT: Yes. This is the time set for
11 sentencing, any reason not to go forward?

12

MR. KLEIN: No, Your Honor.

13

THE COURT: Mr. Woods what is your true name,
14 sir?

15

THE DEFENDANT: Jeffrey Allen Wood.

16

THE COURT: Your date of birth?

17

THE DEFENDANT: 3-16, 1970.

18

THE COURT: There has been a determination of
19 guilt in this matter as a result of a jury verdict which
20 was return on May the 11th of this year, it is the
21 judgment of the Court that you are guilty of the offense
22 of aggravated assault, temporary/substantial
23 disfigurement, with two prior historical convictions, a
24 nondangerous offense, but repetitive as a result of
25 those 2 priors, in violation of ARS 13-604, 13-1204.

1 The Court has read and considered the
2 presentence report, and its recommendation as well as
3 the mitigation report as submitted by defense counsel on
4 the letter of defense counsel.

5 Does the State wish to be heard?

6 MR. DIEBOLT: The State would recommend a
7 consecutive sentence. Under any circumstances I can't
8 envision a concurrent sentence for any reason, there has
9 to be consequences for his behavior. The defendant was
10 doing 22 years for murder in the Department of
11 Corrections when he committed this offense in part the
12 commission of the offense was because I think the victim
13 was Jewish, or Jewish doctor, or a redhead Jewish
14 doctor, I don't know which of those factors, but it is
15 clear he took advantage of that situation. I believe it
16 is mandatory consecutive time, Judge, that's my position,
17 but it is certainly discretionary as to the Court. I do
18 believe the Court could aggravated beyond the
19 presumptive term.

20 I think the presentence report speak for
21 itself, he has an anger issue, he snaps, he doesn't
22 realize it until later on, he is a danger not only to
23 the community at large, but certainly a danger to the
24 inmates at the Department of Corrections, civilian
25 employees and staff.

1 Thank you.

2 THE COURT: Mr. Klien.

3 MR. KLEIN: Thank you, Your Honor. I have only
4 four points to add to the letter that we submitted to
5 the Court in mitigation.

6 Number 1, there have been a variety of false
7 statements concerning Mr. Wood, both during court
8 proceedings and also extraneously in the media, some
9 sort of ridiculous, some similar to what Mr. Diebolt
10 commented about, the motive being that Mr. Wood hates
11 Jews. An example of ridiculous media false statement,
12 there is a statement in one of the media outlets that
13 Mr. Wood has hateful words or depictions on his eyelid,
14 he can clothes his eyes it's lids now and the Court can
15 see there is absolutely nothing there. In terms of Mr.
16 Woods hatred of Jews or supposed hatred of Jews, I am
17 Jewish and Mr. Wood has known that I am Jewish almost
18 since the begining of this case, and I have had
19 absolutely nothing but respect from him, cooperation,
20 thoughtfulness, exactly what I would expect from any
21 client regardless of their believes, he has manifests
22 absolutely no hatred for Jews whatsoever.

23 Ms. Benson and I have commented for example as
24 well on numerous occasions he has been very thoughtful
25 and protective of her when he felt that there were

1 comments made in the court that were not appropriately
2 respectful of her.

3 There are also some true facts that have come
4 out during the course of proceedings. For example,
5 before he was even charged with any type of criminal
6 offense, Investigator Freidlander met with Mr. Wood and
7 on his own Mr. Wood ask how Mr. Schwartz was doing and
8 said he didn't intend to cause the type of harm that Mr.
9 Schwartz suffered. He has been remorseful for that both
10 before criminal proceedings and during the criminal
11 proceedings.

12 In the presentence report there is a reference
13 to what is referred to as a classification alert at the
14 Pima County Jail, what I want to make sure the Court
15 appreciates, is that that is not actually any sort of
16 discipline finding, in fact there were no disciplinary
17 proceedings as a result of that, that was an alert that
18 was placed on what is called a jacket over a year ago
19 and it was just a one time alert, and that's all it was,
20 there was no disciplinary proceeding conducted, or
21 disciplinary finding. The other thing that is
22 significant about that is if you look at his Department
23 of Corrections record compared to his behavior at the
24 Pima County Jail, he has been in the Pima County Jail
25 for well over a year and a half and actually has had no

1 disciplinary violations while at the Pima County Jail
2 that is significant difference from his behavior in the
3 Department of Corrections.

4 In all honestly I think the contact that he has
5 had with Ms. Cune and her efforts to work with him have
6 had a major impact on his better behavior and his more
7 introspective self-examination.

8 The other thing that is significant is that
9 while he was in the department of Corrections he
10 actively sought out mental health counseling, and
11 actually received mental health diagnoses and treatment.

12 Finally, in terms whether this should be
13 consecutive or concurrent sentence, in my letter I
14 indicated that as a result of this incident Mr. Wood
15 will be in maximum security at the Department of
16 Corrections. In addition to that Mr. Wood pointed out
17 to me yesterday, even though there is no information
18 available to the Court concerning restitution, as a
19 resutl of this proceeding, in the Department of
20 Corrections there was a determination back in October
21 that Mr. Wood will be required to pay restitution when
22 medical costs are available. So he is receiving
23 additional punishment as a result of this case, and it
24 is our position that requirement of a consecutive
25 sentence is not justified

1 THE COURT: Thank you.

2 Mr. Wood, is there anything you like to say?

3 THE DEFENDANT: Mainly, the only thing I would
4 like to say about it is, he, he -- I don't know if it is
5 because of his lawsuit or what, he is trying to make
6 this like it is a hate crime, and that's not what it was
7 about. Yeah I have certain political views that could
8 easily be slanted that way, but that was not what this
9 was about.

10 THE COURT: I don't what your motivation was,
11 Mr. Wood, but I don't attribute any anti-Semitic motive
12 to you.

13 THE DEFENDANT: That's, absolutely, Your Honor.

14 THE COURT: The Court notes by way of
15 aggravating factors, your two prior misdemeanor
16 convictions and three felonies.

17 By way of mitigation, the Court notes the
18 disfunctional family background.

19 And based on all the information available to
20 the Court it is the judgement of the Court that you be
21 imprisoned for the presumptive term of 10 years, that
22 sentence is to run is to run consecutive to that imposed
23 in CR-9731101 and CR-971435 for Mohave County Superior
24 Court.

25 The Court also imposes attorney's fees of \$400.

1 You are given credit for 567 days of
2 presentence incarceration.

You have the right to file a direct appeal of this matter if you wish to file an appeal, it must be done in writing within 20 days of today's date. If you can't afford the services of the attorney or the necessary records and transcripts for such an appeal they will be provided to you at no cost.

9 The Court also imposes a \$25 indigent defense
10 fee.

11 Anything else, counsel?

12 MR. KLEIN: Just to request the Court order the
13 mitigation report be sealed and that neither party
14 disclose the contents of that.

15 THE COURT: It will go to the Department of
16 Corrections, however. If you don't, if you don't want
17 that to happen I suggest the best procedure is just to
18 return it to you.

19 MR. KLEIN: If the Court is willing to do that
20 I would appreciate that.

21 Thank you very much.

THE COURT: The Court will be at recess.

23 (PROCEEDINGS CONCLUDED.)

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3 **REPORTER'S CERTIFICATE**

4 STATE OF ARIZONA) : SS
5 COUNTY OF PIMA)

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7 I, Mary E. Bernal, do hereby certify that as a Machine
8 Shorthand, Certified, Official Reporter for the Superior
9 Court of Pima County, Arizona, I was present at the
10 hearing of the foregoing entitled case; that while there
11 I took down in shorthand all the oral testimony adduced
12 and the proceedings had; that I have transcribed such
13 shorthand into typewriting, and that the foregoing
14 typewritten matter contains a full, true and correct
15 transcript of my shorthand notes so taken by me as
16 aforesaid.

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Mary E. Bernal

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Certified Court Reporter

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Certification #50414

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